



Multistate Tax

State Tax Matters

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Articles:

Inside Deloitte: *Direct Marketing* Decision May be a Net Loss for Remote Sellers

The Supreme Court recently issued a unanimous decision in *Direct Marketing Association v. Brohl*, reversing an earlier decision rendered by the US Court of Appeals for the Tenth Circuit. The Tenth Circuit had held that the Tax Injunction Act (TIA; 28 USC. section 1341) deprived the US district court of jurisdiction to enjoin Colorado from enforcing its remote seller² sales and use tax notice and reporting requirements. The Supreme Court held that the TIA did not bar the suit brought by the Direct Marketing Association (DMA) because the injunctive relief sought would not enjoin, suspend, or restrain the assessment, levy, or collection of Colorado’s sales and use taxes. In an environment in which states have made continued efforts to capture sales and use tax revenue attributable to remote seller transactions, the Court’s holding in *Direct Marketing* may be viewed as a victory for remote sellers insofar as it allows the DMA to pursue its federal suit to enjoin Colorado’s remote seller sales and use tax notice and reporting requirements.

Read the full edition, authored by Sarah Laszlo, Jeffrey Maxwell, Snowden Rives, Laura Bath, and Greg McClure of Deloitte Tax LLP, originally published in *State Tax Notes*.

URL: <http://www2.deloitte.com/us/en/pages/tax/articles/supreme-court-decision-direct-marketing-net-loss-remote-sellers.html?id=us:em:na:stm:eng:tax:060515>

Amnesty:

Washington: City of Tacoma Tax Amnesty Program Began June 1 and Ends June 30

Tax Amnesty Program, City of Tacoma (5/11/15). Qualifying registered and unregistered businesses in Tacoma, Washington may, for a limited time from June 1, 2015 through June 30, 2015, take advantage of a “one-time program” that potentially waives penalties and interest on local City of Tacoma business tax and license fees that were due April 30, 2015 or prior, including:

URL: <http://www.cityoftacoma.org/cms/One.aspx?portalId=169&pageId=79988>

- Business and Occupation (B&O) Taxes;
- Private Utility Taxes (Telephone, Cellular, Cable, Solid Waste, Natural Gas, Electricity);
- Admissions Taxes;
- Gambling Taxes;
- Annual Business License Fees;
- Regulatory License Fees; and
- Unreported Liabilities.

The program may also potentially waive 50% of civil penalties. For unregistered businesses, the “look-back” period is generally limited to four years in addition to the current year.

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Income/Franchise:

Connecticut: Legislation Includes Mandatory Unitary Combined Reporting, Extension of 20% Corporate Surcharge, & NOL Limitations

H.B. 7061, passed House & Senate 6/3/15. Pending legislation that is expected to be signed into law includes numerous tax-related provisions, including important changes to Connecticut’s corporation business tax, such as:

URL:

http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which_year=2015&bill_num=hb7061

- Mandatory unitary combined reporting effective January 1, 2015;
- Extension of the 20% surtax for both the income base and the capital base for all income years beginning prior to January 1, 2018;
- Imposition of a permanent 10% surtax for the income base beginning in years after January 1, 2018; and
- New net operating loss (NOL) limitations effective January 1, 2015.

See upcoming Multistate Tax Alert for more details on these and other expected Connecticut tax law changes.

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Sales/Use:

Nevada: New Law Includes Affiliate Nexus and Remote Seller “Click-Through” Nexus Provisions

A.B. 380, signed by gov. 5/27/15. Effective on July 1, 2015, new law creates a presumption that a retailer is required to impose, collect and remit Nevada sales and use taxes if the retailer is:

[URL: https://www.leg.state.nv.us/Session/78th2015/Reports/history.cfm?ID=843](https://www.leg.state.nv.us/Session/78th2015/Reports/history.cfm?ID=843)

- Part of a controlled group of business entities that has a component member who has physical presence in Nevada; and
- The component member with such physical presence engages in certain activities in Nevada that relate to the ability of the retailer to make retail sales to Nevada residents.

A retailer may rebut this presumption by providing proof that the component member with physical presence in Nevada did *not* engage in any activity in Nevada that was significantly associated with the retailer’s ability to establish or maintain a market in Nevada for the retailer’s products or services.

Effective on October 1, 2015, another provision of this new law creates a presumption that a retailer is required to impose, collect and remit Nevada sales and use taxes if:

- The retailer enters into an agreement with a Nevada resident under which the resident receives certain consideration for referring potential customers to the retailer through a link on the resident’s Internet website or otherwise; and
- The cumulative gross receipts from sales by the retailer to customers in Nevada through all such referrals is in excess of \$10,000 during the preceding four quarterly periods ending on the last day of March, June, September and December.

A retailer may rebut this presumption by providing proof that each resident with whom the retailer has an agreement did *not* engage in any activity that was significantly associated with the retailer’s ability to establish or maintain a market in Nevada for the retailer’s products or services during the preceding four quarterly periods.

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Multistate Tax Alerts

What's new in the States? Our Multistate Tax Alerts highlight selected state tax developments relevant to taxpayers, tax professionals, and other interested persons. Read our more recent alerts below or visit the archive for ones you may have missed.

Archive: <http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-archive0.html?id=us:em:na:stm:eng:tax>

Tennessee Enacts Broad Changes to State Tax Code

Tennessee Governor Haslam recently signed into law the Revenue Modernization Act (the "Act") (H.B. 0644). The Act includes the following modifications to Tennessee law:

- Adopts economic nexus thresholds for the business tax and the franchise and excise tax;
- Replaces the existing apportionment double-weighted sales factor with a triple-weighted sales factor for calculating the franchise and excise tax;
- Amends the excise tax deduction for intangible expenses paid to an affiliate;
- Adopts market-based sourcing for sales other than the sale of tangible personal property;
- Adds an elective apportionment calculation for high-volume sellers with distribution centers in Tennessee;
- Expands sales tax to include remotely accessed software; and
- Adds a presumption of "click-through" nexus for sales and use tax purposes for certain dealers.

This Multistate Tax Alert summarizes these Tennessee tax law changes that have various effective dates.

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URL: <http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-tennessee-enacts-broad-changes-to-state-tax-code.html?id=us:em:na:stm:eng:tax:060515>

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